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10/743,936	12/23/2003	Leslie E. Smith	P-FILM-603	9398

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EXAMINER

HUSON, MONICA ANNE

ART UNIT	PAPER NUMBER
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1732

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/743,936
Filing Date: December 23, 2003
Appellant(s): SMITH ET AL.

Christopher John Rudy
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 15 November 2005 appealing from the Office action mailed 18 April 2005.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2759217	Peterson	8-1956
5760122	Susa et al.	6-1998
6487902	Ghosh	12-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 10, 11, and 20-31 are rejected under 35 USC 103(a) as being unpatentable over Peterson (U.S. Patent 2,759,217), in view of Susa et al. (U.S. Patent 5,760,122).

Claim 12 is rejected under 35 USC 103(a) (see Advisory Action mailed 7 July 2005) as being unpatentable over Peterson and Susa, further in view of Ghosh (U.S. Patent 6,487,902).

(10) Response to Argument

It is noted that applicant's arguments submitted in the Appeal Brief are substantially identical to those submitted in the After-Final Remarks filed 17 June 2005. Therefore, the examiner's response is also substantially the same as that stated in the Advisory Action mailed 7 July 2005.

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Applicant contends that Peterson does not teach deforming a paint film. This is not persuasive because he shows a deformable material that could be painted, and therefore it is maintained that his disclosure could suggest a deformable paint film.

Applicant contends that Susa does not teach stretching. This is not persuasive because he mentions that his process involves "stretch[ing] to a small extent" in his disclosure in column 1, lines 23-27.

Applicant contends that neither Peterson or Susa teaches "precursors and parts that can be wider than sheets. This is not persuasive because those limitations are not in the current process claims.

Applicant contends that the Peterson and Susa are not combinable because they are in different technical fields. This is not persuasive because both disclosures involve film articles and the reshaping thereof.

Applicant contends that there is no motivation to combine Peterson and Susa. This is not persuasive because Peterson offers a practical method of stretching a film article, and Susa offers a specific film article that is stretched. It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to stretch Susa's specific film article using Peterson's stretching method (which is applicable to general films).

Applicant contends that Susa teaches that stretching is undesirable. It is noted that this is a misplaced generalization, as some "small extent" stretching is viewed as acceptable.

Applicant contends that Peterson and Susa do not teach various other dependent claims for the reasons that they do not teach independent claim 10. These reasons have been discussed above.

In response to the rejection of Claim 12, it is noted that the first sentence of this section contained a typographical error, noting PCT Article 33(3). As was easily evident and previously stated in the Advisory Action, the rejection was made under 35 USC 103(a), as there would be no reason to use PCT Article 33(3) in an office action relevant to US patent practice.

Applicant contends that Ghosh does not suggest the claimed stretching ratio to obtain a parts-formable sheet stock. This is not persuasive because the possibility of failure at the desired stretching ratio is not excluded by the current open claim language. Even if his articles fail soon after the claimed stretching ratio, it is maintained that he suggests that film articles can be stretched to that extent.

Applicant contends that the prior art of record does not suggest the claimed invention because Ghosh does not teach a laminated paint film stock. This is not persuasive because Ghosh was not cited to teach such a limitation. Further, applicant contends that Ghosh is not combinable with Peterson and Susa because his disclosure highlights test methods. This is not persuasive because the selected method step is suggested by Ghosh, and it is interpreted that the selected method step is applicable to both test methods or manufacturing methods.

It is unclear why applicant notes that stretching is not a valid technical field for the ordinary artisan. There are entire classes of patents that involve stretching (e.g. Class 254), which would seem to indicate that stretching, indeed, is a worthy area of research and industry.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Monica A. Huson



Conferees:

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